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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Petition for Rulemaking To Determine The Terms and Conditions Under Which Tier 1 LECs Should Be Permitted to Provide InterLATA Telecommunications Services

R.M. -8303

OPPOSITION TO PETITION FOR RULEMAKING

Allnet Communication Services, Inc. (Allnet) hereby opposes the Petition for Rulemaking filed by five RBOC holding companies (the "Holding Companies"), none of which claim to be Tier 1 LECs.[1] With the limited resources of the Commission and Congress already in the process of drafting legislation to address the very issues raised by the RBOCs, it makes little sense for the Commission to devote any resources to the Petition filed by these holding companies. Moreover, the Commission already has many unfinished matters that it needs to attend to including, but not limited to, five year old intraLATA equal access complaints, [2] incomplete investigations of cross-subsidies by NYNEX and other RBOCs, [3] and

[1]The Regional BOCs, Bell Atlantic, BellSouth, NYNEX; Pacific Telesis Group, Southwestern Bell, are not the underlying Tier 1 common carriers, and there is no representation that they are authorized to represent the views of the underlying Tier 1 common carriers that they own. As explained in the body of the text, the relief sought by these holding companies is not in the interests of the local exchange carriers that they own. Thus, it is not surprising that the Tier 1 carriers themselves are not the signatories of the Petition. The Commission has found that the holding companies do not have the same standing as their underlying carriers. See, for example, MO&O, Allnet v. NYNEX, and Bell Communications Research, File Nos. E-90-388, and E-90-389, released January 19, 1993.

[2]See, for example, Petition for Reconsideration, Allnet v Illinois Bell, Indiana Bell, Michigan Bell, Ohio Bell, Wisconsin Bell, and US West, File Nos. E-91-030 through -034, and E-89-38, filed June 2, 1993; also, Allnet v. BellSouth, File No. E-93-024, filed December 23, 1992.

[3]Memorandum Opinion and Order, Allnet v. New York Telephone and New England Telephone, File No. E-90-183 and 184, released May 6, 1993 at ¶4; and, MO&O, Allnet v. Illinois Bell, et al., released May 3, 1993 at ¶51.

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expanded interconnection which would at least provide some marginal alternatives to the monopolies owned by the holding companies.[4] Finally, the RBOC petition assumes that the Commission can and will, on its own, pre-empt the state regulation of intrastate access. While it is true that the MFJ anti-trust decree does transcend both interstate and intrastate communications, the FCC does not have such overreaching authority without enabling legislation. This only strengthens the need for Congress to be permitted a full opportunity to act before any resources of the Commission are wasted on this frivolous petition. Ironically, while these holding companies hail the FCC's attempts to promote equal access, each of them has both openly opposed it for their toll services and has attempted to withdraw it for interLATA services at every opportunity.[5]

As will be shown here, entertaining the Holding Company Petition is neither in the interests of the public or the Tier 1 operating companies, themselves.

I. Fundamental Economic Theory Conclusively Demonstrates That Vertical Integration of Monopolies Such As Tier 1 Local Exchange Carriers Is Not In the Public Interest

The Holding Companies ask that the Commission find that "BOC" participation in the long distance markets is in the public interest.[6] Holding Company Petition at 9. The Holding Companies claim that such a "direct statement" "would supply the antitrust courts with a firm basis for returning

[4]CC Docket No. 91-141.

[5]See, BOC Motion for Removal of Mobile and Other Wireless Services from the Scope of Interexchange Restriction and Equal Access Requirement of Section II of the Decree, filed with DOJ on December 13, 1991.

[6]Given that the Petition defines the "BOCs" as the holding companies (see, page 1 of Holding Company Petition), and not the Tier 1 local exchange carriers that they own, the BOCs unartful drafting creates an ambiguity as to whether they are really asking for allowing only the holding companies in, or the underlying common carriers which they own.

control over this fast-changing industry to the Commission." The request of the Holding Companies is both self-serving and a waste of Commission resources.

First, the courts cannot transfer the antitrust power that they have, which transcends both interstate and intrastate communications, to the Commission without federal legislation that, if properly crafted, would transfer such power to the Commission. The Holding Companies noticeably avoid the state jurisdictional matter -- a fatal flaw of their Petition.

Second, the Holding Companies claim that the bar on their entry in the interLATA market has "impeded interLATA competition," which the Holding Companies claim "has not developed as vigorously as it should have." Holding Company Petition at 10. This claim is inconsistent with any recent finding of the Commission to date. Ironically, the Holding Companies can only cite to 1989 documents of the Commission to find support for their tenuous conclusions.[7] More recent documents tell a completely different story. The Commission has time and again found the interLATA market to be competitive.[8] In fact, the major market structure problems in this industry arise from the nature of the Petitioners themselves. Their access rates are as much as 35% too high, overall.[9] And, despite their excessively high access rates, the Tier 1 carriers owned by the Holding Companies continue to attempt to raise their access rates and implement

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[7]See, Holding Company Petition at 12 citing 1989 FCC Working Paper and 1989 Rulemaking. Cites to industry stock analyst reports are not objective and are written for a particular purpose and a particular audience, namely the stock investment community.

[8]See, for example, Second Report and Order, re: Competition in the Interstate Marketplace, released May 14, 1993, 8 FCC Rcd 3668. The Holding Companies list of nationwide long distance carriers is also incomplete. See, Holding Company Petition at 11. For example, underlying nationwide transmission providers, such as WilTel, provide transmission which allows companies such as Allnet to provide nationwide long distance service without being dependent on AT&T, MCI, or Sprint.

[9]See, Ameritech Customer First Plan, Reply, filed July 12, 1993 at Attachment J ("The Ameritech Plan In Context Supplemental Paper," David Teece at Exhibit 4.

discriminatory rate structures.[10]

Ironically, the Holding Companies cite to AT&T's market share of 60% as a basis for concluding that competition in the interLATA market has not fully evolved. However, if one takes this economic predicate unchallenged, then the Tier 1 carriers that the Holding Companies own are super access monopolies, because each of them carriers in excess of 99% of all access traffic in their respective serving areas.[11] Thus, contrary to the claims of the Holding Companies, "competitors" are far from "rapidly assembling full-fledged alternative networks..." Holding Company Petition at 1. Not surprisingly, the Holding Companies offer no relevant data to support any of their claims regarding competition "on customers' premises," "radio" from non-affiliated cellular telephone providers,[12] non-existent PCS services,[13] CAPS (who provide highly specialized transmission capabilities that do not have the ubiquity and subsidies of the Tier 1 operating companies),[14] and cable systems that

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[10]The BOCs have all attempted to increase their access price caps due of TBO benefit treatments. See, 1993 Annual Access Tariff Direct Cases. Also, discrimination, as practiced by the Tier 1 companies, is only possible if they possess monopoly power. cite to Pindyck and Rubinfeld, Microeconomics,2d Edition, Chapter 11, "Pricing with Market Power." (1992).

[11]Ameritech's recent study and statistics re: CAPS point out that CAPS have only $200 to $250 million in annual revenue-- less than 1% of the total access market. Ameritech Customer First Plan, Ameritech Supplement, Attachment 1 of 4, Volume 1 at III-3, dated April 16, 1993

[12]Each the Holding Companies owns and controls the "wireline" cellular provider in its respective serving areas- -- which is typically more than half the wireline cellular capacity in each serving area. In addition, typically at least one of the Holding Companies owns, controls, or is affiliated with the "non-wireline" cellular provider who occupies the remaining cellular capacity in each of the Holding Company's serving territories. Thus, in most areas, cellular provides little or not competition to the Holding Companies or their affiliates.

[13]Not surprisingly, the Holding Companies have opposed proposals that would make PCS meaningful competitors, including national licensing to assure rapid national deployment by a non-Holding Company affiliated entity. In addition, the Holding Companies seek to obtain the PCS licenses in their territories, thus blocking out non-affiliated competitors.

[14]As far as the impact of collocation and expanded interconnection, there is no indication that these measures will make the CAPs competitive with the Tier 1 companies -- particularly, given that the Tier 1 companies have set excessively high prices for inferior interconnection for the CAPS. [The Tier 1 companies continue to fend off efforts to provide equal end office tandem signaling which would allow the CAPS to provide a reasonable alternative to Tier 1 carrier-provided tandem routing.]

are incapable of providing two way switched voice communications. As even the Holding Companies admit, "today's small residential and business customers remain largely dependent on the single, established local exchange carrier for telephone service." Holding Company Petition at 24.

There is no basis for the Holding Companies view that both large and small customers increasingly want end-to-end service form a single provider. Holding Company Petition at 24. In fact, this is counter to the general trends in marketing where customers seek choice and the ability to combine the services of many service provider.[15] Moreover, to the extent that end to end services are required by end users, the access that will be provided for that end to end service will still be more than 40% dependent, from a cost structure view, on the access provided by the Tier 1 carriers. Thus, no "trends" identified here present a meaningful threat to the BOC's ability to be access providers who satisfy the needs of the marketplace.

The Holding Companies have their facts wrong regarding any positive value in their participation in the interLATA market, as well. They fail to point out that in the intraLATA toll market, where the BOCs have been allowed to participate since divestiture, no extensive competition exists that has resulted in superior market performance over and above that which has occurred in the interLATA market. Thus, there is no basis for concluding that their participation in the interLATA market will enhance competition.

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[15]See, for example, MCI's PCS Petition which advances equal access for all PCS systems so that end users can not only chose their PCS provider, they will also to be able to switch their PCS provider while maintaining their number, and chose any long distance carrier they chose

II. Established Economic Theory Conflicts With the Request for InterLATA Relief

"For the ultimate consumer, vertically integrated monopoly is less satisfactory than competitive behavior at *all* stages."[16] "One answer [to the Chicago Proposition, that vertical integration can do no harm,] is that the world is a good deal more complex than assumed in the models generating the Chicago proposition. In particular, these models ignore the possibility of substitution between monopolized and competitive upstream inputs, consider only the polar extremes of pure monopoly and pure competition, and abstract from dynamic models."[17] "[W]hen competitively priced inputs are moderately good substitutes [e.g.., CAPS, etc] for monopolized inputs [here, Tier 1 provided local access], vertical integration into down-stream input-buying industries [here, the inter-LATA market] can bolster monopoly power rather than taming it."[18]

In summary, the Holding Company's Petition ignores these monopoly enhancing effects of their proposal. In fact, if the Tier 1 companies owned by the Holding Companies truly do have significant competition (i.e., they are not monopolies), their entry into the interLATA business will only drive customers away from them, while driving up the prices of interLATA services. Strategically, neither AT&T, or any other interexchange carrier, can afford to rely upon a Tier 1 interLATA competitor for such a large portion (in excess of 99%) of the critical access input to those IXC's interLATA services. In other words, IXCs will be willing to pay a premium for access alternatives in order to avoid using these companies to

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[16]Scherer and Ross, Industrial Market Structure and Economic Performance, 3rd Edition, Houghton Mifflin Company, (1990) at 521.

[17]Id. at 14.

[18]Id. at 536 (emphasis added).

the extent that they have in the past. As it is well recognized, "the conduct of vertically integrated firms" could increase the "risks for non-integrated firms by exposing downstream specialists to regular or occasional price squeezes" or make "it difficult for upstream specialists to find markets for their output in times of depressed demand. To avoid these hazards, firms entering either of the markets in question might feel compelled to enter both, increasing the amount of capital investment required for entry. If, in addition, unit capital costs were higher with larger-scale entry attempts [as they are here] or if there were absolute barriers to raising the amount of capital needed for entry [as there is here], a chain of causation would run from vertical integration to increased risk of non-integrated operation to the need for large-scale entry to capital cost barrier to entry. The elevated entry barriers could in turn lead to higher prices and corresponding allocative inefficiency."[19] Thus, entry into the interLATA business by the Tier 1 BOCs, in competition with their major customers, will only lead the Tier 1 companies to higher interLATA rates and a significant (and possibly inefficient) deloading of their access services -- leading to their own ultimate exit from the access business in the very long term if they fail to capture a significant portion of the interLATA market and become their own biggest access customer.

Of course, if the Holding Company's assumption -- that there are significant alternatives to access competition -- proves to be untrue, the BOCs will ultimately dominate the interLATA business, replacing AT&T as the largest interLATA carrier in their respective serving areas. The Holding Companies no less concede that they will quickly capture a significant portion of the interLATA market when they claim that AT&T's dominance status will be eliminated upon their entry in the

[19]Scherer at 526 (emphasis added).

interLATA market.[20] Thus, the Holding Companies prove too much as they concede that their interLATA entry will significantly affect the interLATA market structure to the extent that the existing dominant carrier will no longer be dominant. The only way such an outcome could happen is if the BOCs became dominant (or part of a comfortably oligopoly with AT&T) in the interLATA market. Thus, their entry, by their own observations, will enhance their monopoly power -- an outcome that is antithetical to this Commission's policies and goals, as well as very anti-consumer.

III. The Analogies To Information Services Relief Is Misguided

The Holding Companies attempt to analogize their proposal to that of ONA/CEI and information services. See, e.g., Holding Company Petition at 26. These analogies are misguided. In their review of the information services court decision, the Holding Companies leave out two critical factors that weighed into the Court's view that the BOC's entry into the information services business would not be harmful. First, the Court noted that access charges make up an insignificant portion of the total costs of providing information services.[21] This is not true for interLATA services where 40 to 50% of the costs of providing interLATA services

[20]The Holding Companies state: "[i]f the BOCs are to be treated as non-dominant [in the interLATA market], then streamlined tariff regulation for interLATA services, of the sort proposed for other non-dominant providers, may be appropriate. Indeed, it may then even be possible to eliminate the residual additional regulation still imposed upon AT&T, the one player that to this point clearly does still dominate the interLATA market." Holding Company Petition at 39, also see note 94.

[21]US v. Western Electric (U.S.C.A. Case No. 91-5263 May 28, 1993), (Information Services Decision) slip op. at 17 ("The discrimination hypothesis appears to assume, moreover, that local interconnections are a major element of the total costs of providing information services...only about 4.5% to 6% of CCH's costs are susceptible to BOC discrimination.")

are the rates charged by the Tier 1 companies for access.[22]

Second, the Court recognized that there were extensive alternatives for information service providers.[23] However, such is not the case with interLATA services, where today and for the foreseeable future, over 99% of all access for interLATA calling is provided by the Tier 1 carriers in their respective territories.

Thus, the Holding Companies analogies are misguided and not reflective of the facts underlying the Court of Appeals decision for information services.

IV. Non-Structural Safeguards Are Completely Self-Serving for The BOCs

As explained above, vertical integration of monopoly firms can lead to stronger monopolies. In contrast, the Holding Companies argue that "as a new entrant in the interLATA market, a BOC will start with no market share, and thus no power to raise prices or restrict output in that market." Holding Company Petition at 37. In light of the economic analyses set forth above, this is clearly not correct. Moreover, the BOCs, by virtue of the control over the access market (including what forms of interconnection are offered and how they are offered), can and will use that bottleneck control to raise prices in the interLATA market by raising the costs of their competitors (with their pricing flexibility under price caps),

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[22]The Holding Companies admit in their petition the extent that access charges drive interLATA prices, as they claim that "[t]he price of long-distance calls has roughly halved, and output in the market has roughly doubled in the last 9 years since divestiture. But these sharp changes have been brought about almost entirely by changes in the costs of local exchange access." Holding Company Petition at 11.

[23]See, Information Services Decision, slip op. at 16-17 ("Take the provider's end first. Professor Fisher notes that providers may prevent such discrimination by exploiting competition between BOCs and non-BOC telephone companies, by moving or threatening to move their distribution facilities (the point where the information is fed into the telephone system) to a different region or an independent company within the BOC's region." Such an alternative is simply not available for interLATA services for which the IXC can neither control the point of origination or point of termination of a telephone call.

and restrain output (by virtue of denying innovative forms of interconnection that would advance the businesses of their competitors, while possibly setting back their own interLATA businesses). The BOC's denial of intraLATA equal access and their desires to promote inflate rates for tandem routed calls,are only two examples of the types of anticompetitive activities that the BOCs have and do engage in under the existing regulatory regime -- with little fear of being prosecuted by the Commission.[24]

Finally, for completeness of the record on whether structural safeguards, such as ONA and expanded interconnection are effective, a copy of Allnet's comments on the Ameritech Customer First Plan at attached hereto.

Respectfully submitted,
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Dated: August 30, 1993

[24]Other examples of discriminatory pricing proposals set forth by the BOCs are bulk billing and discount based on growth, such as those that were proposed by Ameritech's Customer First Plan and NYNEX (in a recent proposal regarding an access pricing experiment in Vermont) respectively. Both plans would favor the BOCs as "new entrants" in the interLATA market.

ATTACHMENT I
AMERITECH CUSTOMER FIRST PLAN

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Petition for a Declaratory Ruling and Related Waivers to Establish a New Regulatory Model for the Ameritech Region

COMMENTS

Allnet Communication Services, Inc. (Allnet), herein comments on the Ameritech Petition for a Declaratory Ruling and Related Waivers to Establish A New Regulatory Model for the Ameritech Region (Ameritech Petition). Allnet commends Ameritech for proposing local interconnection, however, it was disappointing to see that Ameritech's proposal hardly goes beyond the local interconnection requirements that the FCC has already adopted, or is considering to adopt in the near future. Ameritech's proposal also fails to consider true equal access for Advanced Intelligent Network capabilities in their switches. Any forward looking proposal must consider such interconnection, which would allow competitors to directly control the switch primitives on each end user's line that is connected to an Ameritech switch. Thus, Allnet recommends that the Ameritech Petition be considered as part of the ongoing Intelligent Networks Docket, CC Docket No. 91-346.

The Ameritech proposal falls far short of justifying the relief that it seeks. As will be shown, there are a number of inconsistencies within the Ameritech proposal. In addition, there is nothing in the proposal that will alter the motives of the

Ameritech firm to have the incentive to act in an anticompetitive manner. Structural changes to the Ameritech firm, as well as how the resulting affiliates are allowed to interact must be part of any plan. In sum, the Ameritech proposal is a promising start, but far from complete in its analysis, extent, or detail.

I. Background

The Ameritech Petition proposes to "unbundle" the local exchange network. Ameritech argues that its unbundling proposal will result in a major change in the basic economics of local distribution and, in turn, will bring meaningful local exchange competition.

The Ameritech proposal offers the following specifics:

a) Unbundled Loops:	offers unbundled loops at tariff rates established by state regulatory agencies. Rates are set in excess of long run incremental costs, but not greater than fully distributed costs. Access to loops would be at main distribution frame (MDF) or the digital cross-connect (DSX). [Estimated price: $8 to $15 per month]
b) Switch Interconnection:	interconnection to Ameritech's local switching with loops provided by others.
c) Signaling:	unbundled SS7 call set-up capabilities and permits competitors to access SS7 signaling network without subscribing to Ameritech's transport or switching service.
d) White pages, 911, TDD:	offers these network support services to competitors on optional basis.

e) Cooperative Engineering:	offer cooperative engineering, operation, maintenance, and administrative practices.
f) Rights of Way:	on space available basis, provide conduit and pole attachment space on a non-discriminatory basis to authorized interconnectors.
f) Mutual Compensation:	reciprocal rates for termination of traffic by other exchange common carriers.
g) Numbering Plans:	make available complete NXX codes to qualified providers.
h) Local Number Portability:	provide portability "to the fullest extent permitted by current technology" with support for future technology for more robust options.
i) IntraLATA Presubscription:	Each end user could choose to either a) have their IXC carry <u>all</u> of their toll and local traffic, b) have Ameritech carry <u>all</u> of their toll and local traffic, or c) maintain the status quo (i.e., Ameritech carries 1+ local and intraLATA toll, and interLATA carrier carriers 1+ interLATA toll) until a choice of (a) or (b) is made. Under (b), Ameritech said it would be willing to contract with an IXC to carry the local calls of end users who chose to presubscribe to their IXC. Ameritech' s plan does not provide for the use of currently available multi-PIC switch software of such vendors as Northern Telecom. For availability and price list information, see, Report of the Task Force Coordinating Committee to the PSC of Kentucky, dated November 6, 1992 at 38. In addition, Allnet

currently has pending a complaint against Ameritech for failing to provide intraLATA equal access. See, Petition for Reconsideration, Allnet v. Illinois Bell, Indiana Bell, Michigan Bell, Ohio Bell, Wisconsin Bell, and US West, File Nos. E-91-030 through -034, and E-89-38, filed June 2, 1993.

Alleged Implications for Entry: Ameritech claims that the pricing of unbundled loops between the long run incremental costs and fully distributed costs of the loop will create a significant opportunity for competition for the local exchange services. Ameritech projects a loop cost of $8 to $15 per loop in densely populated areas.

Ameritech's consultants argue that the unbundling of the loops will make the local exchange "effectively contestable." A contestable market is one with very low or non-existent barriers to entry -- and which may have only one market participant; contestability theorizes that the threat of entry is enough to tame the pricing behavior of the monopolist in a contestable market. Ameritech goes on to argue that IXCs can enter the local exchange business by either: installing a new switch (at $160 per line serving 80,000 customers) or, the IXC could use a PBX with its existing toll switch. In contrast, a recent report of purchases of GTE telephone properties indicates that typical prices for such properties are $2,200 per end user line.[1] Removing from this amount $400 to $800 for loop costs, the remaining costs $1,600 to $1,800 per line are what would be typical for establishing a "competing" telephone company. This amount is more than 10 times higher than the "PBX-

[1]"A Telephone Acquires Finds Big Money in Small Niches," The New York Times, May 20, 1993 at D1 and D8.

surrogate" that Ameritech sets forth in its example. Thus, Ameritech severely understates the costs of establishing a competing carrier using its resold local loops.

The "Catch:" What Ameritech Expects in Return for Unbundling.

Ameritech seeks both pricing and MFJ relief, in return for its proposal to "open up" its local network. As to pricing, Ameritech expects simplification of hybrid price cap regulation. Caps would only apply for "noncompetitive interstate access services" [i.e., common line related charges, interconnection charges, and bulk-billed (pro-rated based on toll revenue, no access minutes of use) subsidy charges].[2] Rates would be set at July 1993 rate levels. There would be no productivity sharing or annual review of these rates. There would be no caps for competitive services (special access, common and dedicated transport, local switching, and interexchange toll services). As a safeguard, prices for non-capped services would be frozen until July 1994 and then capped at the rate of inflation for three years. After that, there would be no pricing restrictions.

The second part of the Ameritech "deal" is MFJ relief. Specifically, Ameritech wants the interLATA restrictions of the MFJ to be removed. Ameritech argues that MFJ was premised on the use of microwave technology. It argues that it cannot dominate the interLATA market because fiber (with high installation costs, with low marginal costs) is the predominant medium in the interLATA market. Thus, its states that the "costs to serve 100% of the market are not much

[2]"Bulk billed" subsidy charges are inherently unfair and violates Sections 201(b) and 202(a) of the Communications Act. They impose charges without regard to use of the Ameritech network and are inherently favorable to the largest carrier, AT&T. Such proposals have been rejected in the past by the Commission and should be rejected again. See, CC Docket Nos. 78-72 and 80-286.

different from the transmission costs associated with serving 1 percent." In addition, it claims, "first mover advantages are thus considerable....enjoyed by AT&T." Ameritech goes on to state that both price and non-price competition would occur if the MFJ restrictions were eliminated. With the non-price competition being the most important. Ameritech concludes, that "since many network services have high fixed costs, the removal of the interLATA restrictions will at a minimum increase the size of the potential customer base, and bring forward services which involve significant scale economies and network externalities."

Ameritech also claims that lifting the MFJ restrictions would allow it to "optimize its access network services over multiple LATAs reducing the number of tandem switches, signaling transfer points and transmission facilities required to meet customer needs." It should be noted here that this claim contrasts with Ameritech's previous representations in the local transport pricing proceeding (CC Docket No. 91-213) where Ameritech claimed that it could not use a lesser number of tandems in each LATA than the number that are currently employed. It made this claim in order to dispute charges by smaller long distance carriers that the costs of using the tandems were excessively high because of an excessively high number of unnecessary tandems.

Finally, Ameritech also observes that: "Ameritech cannot be compared to an end-to-end monopolist like pre-divestiture AT&T....Most obviously, Ameritech has nothing like a telecommunications monopoly...Ameritech faces increasing competition, both from inside the industry (e.g., CAPS) and outside the traditional boundaries of the industry (e.g., wireless, cable)." However, Ameritech's claims of

competition are disputed by its own numbers. Specifically, Ameritech's report notes that CAPS account for significantly less than 1% of the total access market. [See, accompanying figure.] In addition, Ameritech's Deloitte and Touche firm could only predict that CAPS would "operate at least into the mid-1990s" -- and only because the FCC has promoted local interconnection.[3] As Deloitte and Touche point out,

> the success of the CAPS was largely due to the LECs failure to understand the demand for wideband service by interexchange carriers and large users. The underestimated demand meant LECs were not prepared to efficiently handle high volume of service orders and installation requests. The effect was missed deadlines, excessive downtime, poor customer service -- and a clear market opportunity for a CAP.
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> Id. at III-2.

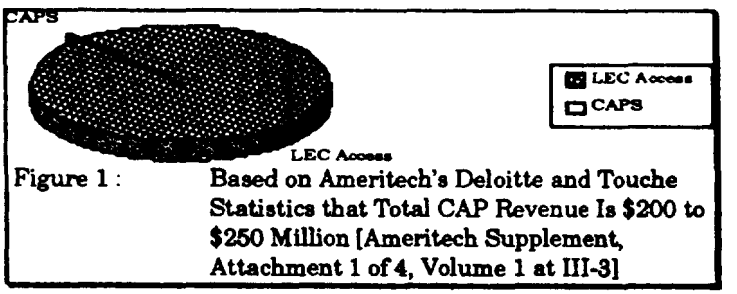

Figure 1: Based on Ameritech's Deloitte and Touche Statistics that Total CAP Revenue Is $200 to $250 Million [Ameritech Supplement, Attachment 1 of 4, Volume 1 at III-3]

Thus, the LECs have mostly themselves to blame. No regulatory agency or policy instructed the LECs to misunderstand the marketplace and fail to serve the needs of customers. As a result of this experience, LECs are expected to close the gap on the CAPs, and the CAPS rate of growth to significantly diminish.

MFJ Issues: Obviously, the FCC has no say in MFJ relief matters, nor should it be taking a position on the changes to the MFJ. Thus, it is gratuitous to have raised the MFJ issue in this proceeding in this forum.

Timing: Ameritech asks for this relief no later than when it implements its

[3]Ameritech Supplemental Materials, Attachment 1 of 4, Volume 1, at III-3.

Customer-First plan.

II. Analysis

The Ameritech proposal equates "local interconnection" with "competition." In other words, it believes that *if you provide local interconnection, competition will come.* Such an approach to solving problems only work in the movies. Ameritech provides no evidence that its proposal fundamentally changes the economics of local distribution from one of natural monopoly to one of workable competition. As Ameritech's consultant, Mr. Teece, points out, the installation costs of fiber are high.[4] Fiber is the predominant transmission media for new installations of local distribution today. Thus, the costs of entry in the local market remain high, and will continue to be so for years to come. With high sunk costs (i.e., high entry costs) and large economies of scale and scope, the local distribution market still retains the characteristics of a natural monopoly. Ameritech sets forth no evidence that the unbundled local network would be any more significantly workably competitive than the existing network.

The underlying belief in the Ameritech plan is that "competitors" will resell the pieces of the Ameritech network that involve high sunk costs, thus making, in Ameritech's view, a competitive market. However, as noted infra, a workably competitive market is one which involves many competitors who compete independently of each other. Resale of a monopoly provider does not make for competition.

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[4]Teece, Restructuring the US Telecommunications Industry for Global Competitiveness: The Ameritech Program In Context," April 1993 at 73 (submitted by Ameritech into the record in this case).

The lack of foresight of the plan is also demonstrated by its failure to recognize the implications of deploying Advanced Intelligent Network (AIN) on the local network's cost characteristics.[5] While technological developments may, at some time in the future, make the local market contestable (but more importantly competitive), empirical objective (and scrutinizable) data is needed to support such a view.[6]

The mere fact that Ameritech proposed this plan says enough about Ameritech's views on the potential effectiveness of the "Customer-First Plan" in promoting workable local exchange competition.[7] If Ameritech truly believed that its plan would result in workable competition, Ameritech would not have proposed it. The demand for Ameritech's local access and toll services continues to be inelastic. As its is well known, "the most powerful determinant of the elasticity of demand for the services of any single company is the presence or absence of

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[5]See, Comments of Allnet Communication Services, Inc. on Intelligent Networks and Intelligent Network Equal Access for CNIPs, re: Intelligent Networks, CC Docket No. 91-346, filed March 3, 1992 (Exhibit I, herein).

[6]The carefully selected and referenced annecdotal data that was presented regarding the toll markets is illustrative of data that is neither objective nor scrutinizable. The data, which Ameritech attempts to portray as having some global significance with regard to toll competition, is, upon closer review, highly selective data from only the "Larger Businesses" who are "Metropolitan Based." See, Ameritech IntrLATA Toll Revenues, Prepared by Quality Strategies, found at Attachmen 1 of 4, Volume 2, Appendix G. Such limited annecdotal samples are of no material value in determining how public interest questions should be addressed. Unfortunately, this type of useless data was typically employed in the Ameritech papers that supported its plan.

[7]Workable competition would exist if the barriers to entry were low enough to allow potential entrant firms to readily enter the market in response to super-normal profits, that the market can support a sufficiently large number of firms to ensure that each competes independently, that there is an absence of collusion and restrictive agreements, that well-informed customers can choose rationally between alternative suppliers, firms exhibit patterns of performance consistent with the preceding structure and conduct criteria, long run profits will be reasonable in relation to the degree of risk in the industry, surviving firms will be efficient and progressive with regard to product innovations, situations of excess capacity and insufficient reserve capacity will be avoided.

competing suppliers." Kahn, The Economics of Regulation: Principles and Institutions, Volume I, 1970 at 159. Facing an inelastic demand, Ameritech will still be free to price as a monopolist. That is, if Ameritech were to raise prices, its overall revenue would increase. This contrasts with the situation of a competitive firm who sees an overall loss of revenue when that firm increases its rates.

Assuming that Ameritech were correct in its assumption that workable competition would flow from its proposal, then Ameritech would face elastic demand -- severely hampering its ability to maintain its existing profit levels. Ameritech is a profit-maximizing firm , thus we know that Ameritech does not propose plans that will reduce its ability to earn, and continue to increase, its profits.

Objective Measures of the Presence of Competition Are Required: There is no empirical evidence or relevant data that would suggest that the actions proposed in the Customer-First Plan will bring workable local exchange competition to all of its local markets. Instead, giving Ameritech the benefit of the doubt, any deregulation should be tied to empirical measures of the effectiveness of the Customer-First Plan. That is, deregulatory steps should be tied to objective measures of the existence of local competition, rather than theoretical promises of competition.

A major flaw of the Ameritech proposal is that it does nothing to alter the incentives of the firm to engage in monopolistic and anticompetitive conduct. The goals of each of Ameritech's employees, regardless of the division they serve, must -- by definition -- incorporate the best interests of Ameritech, as a whole. Thus, if an employee working in the switch area is faced with choosing whose order should be worked on first, that employee will choose the Ameritech affiliate's order. Similarly,

when the access pricing managers are deciding how to price their services, raising the charges to as high a level as the monopoly market will bear will still be the rule of the day -- even if the Ameritech affiliate is a customer of those services. This is because the overall well-being of the firm is best served by such pricing actions. It is difficult, if not impossible, to legislate (by rules or statutes) a "corporate morality" that will force a company's employees to look at a competitor in the same light as their own company. Every company employee knows that he or she will not score points with upper management by forcing the company's own affiliate to "wait in line with the others."

Ameritech's plan does not even attempt to provide some limited incentives to employees to treat company and competitors equally and fairly. Not even structural safeguards were proposed. This is not surprising, as it is difficult, if not impossible, to detect discrimination between an integrated corporate affiliate (or even a favored customer) and an completely separate competing firm.[8] Mechanisms are easily created to foster such discrimination in ways that are difficult to detect and/or easy to rationalize to a regulator.

The only true controls over monopoly and anticompetitive pricing can come

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[8]For example, simply by how it chooses a pricing structure for access, a company can discriminate between itself and others, or between favored customers (such as AT&T), and its competitors. One example is the use of monthly charges for "dedicated access," and the "tandem switching" charge, both of which have been promoted by Ameritech and both of which favor both Ameritech and AT&T. Due to the integrated nature of Ameritech's toll services, there is no identifiable "dedicated access" for Ameritech, thus it never is charged the fee associated with such rate elements. Similarly, the currently debated tandem charge is highly discriminatory in favor of AT&T. Even though the tandem is sized to handle AT&T's peak load, AT&T would not pay a proportional amount of the tandem costs -- which are primarily capacity related. Thus, AT&T is subsidized by its competitors under such a rate structure, allowing Ameritech to give AT&T a price break so that Ameritech can allay its unjustified fears that AT&T will leave it for a CAP. Thus, a rate structure which includes a rate element that an affiliated enterprise (or a favored customer) would not apparently use or would apparently use to a lesser extent, but which its competitors must have, creates inherent rate structure discriminations.

when workable competition can be shown to exist in all aspects of Ameritech's markets. However, Ameritech has not shown that such workable competition is guaranteed to be realized. There are no safeties in its plan (nor can any be designed) to undo the damages once it has occurred. This is not surprising because it would only be in Ameritech's best self-interest to assure that the damage that it has done to potential competition during its temporary deregulation is not reversible.

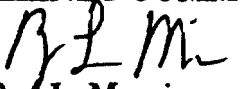
Conclusion

The Ameritech Customer First plan should be combined with the Commission's Intelligent Network docket, to the extent that it proposes any new or novel interconnection methods. However, most of the basic proposals of the plan are not new, but instead have already been considered and been adopted by the Commission, or will be adopted upon the issuance of an order. Thus, the only aspects that remain to be explored are equal access to the Intelligent Network capabilities of the Ameritech network.

As for regulatory relief, when and if Ameritech can show, using objective measures, that key aspects of their business is subject to workable competition (i.e., that they face an elastic demand for their services), then and only then should any FCC regulatory relief be considered, and even then only to the degree that actual competitive penetration has been achieved. Deregulation cannot be done based on a promise, there must be actual results before appropriate deregulatory action is taken. As to MFJ relief, such matters are outside of the scope of the Commission's jurisdiction, but is instead the subject of a court-enforced consent decree to which

Ameritech agreed to its terms.

Respectfully submitted,
ALLNET COMMUNICATION SERVICES, INC



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Dated: June 11, 1993

Certificate of Service

I, Angela Slaughter, hereby certify that I have caused to be served on this date, August 30, 1993 a true copy of the forgoing Allnet Opposition by postage-prepaid first class mail to the parties on the attached service list.

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